

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

January 25, 2001

GSBCA 15244-RELO

In the Matter of WILLIAM R. THYGERSON

William R. Thygeron, APO Area Europe, Claimant.

Elizabeth B. Throckmorton, Chief, Policy and Program Development Division,
Department of the Army, Alexandria, VA, appearing for Department of the Army.

BORWICK, Board Judge.

Claimant, a civilian employee of the Department of the Army, filed a claim at this Board contesting the agency's refusal to reimburse him for the cost of delivery of his household goods (HHG) from non-temporary storage to his family's residence in Huntsville, Alabama. Claimant incurred the expenses during his assignment to the United Kingdom.

After the filing of the claim at this Board, the agency determined that claimant was entitled to reimbursement of the claimed expenses. The agency stated that it "will reimburse the claimant for the expenses incurred in the delivery of the non-temp storage to the location in Huntsville, thus making the claim before the Board moot." We dismissed the claim as moot, over claimant's objection. William R. Thygeron, GSBCA 15244-RELO, 00-2 BCA ¶ 30,963.

Claimant filed for reconsideration, arguing that "unless a definitive decision [by this Board] is published, Army transportation representatives at Huntsville (and potentially elsewhere) will continue to deny overseas employees a valuable and useful entitlement."

On November 27, the agency advised this Board that it had reimbursed claimant for the claimed amount, but withheld sums to offset a travel advance that had not been paid.

This case is moot. A case is moot when the controversy is no longer alive because a plaintiff lacks a legally cognizable interest in the outcome. Powell v. McCormack, 395 U.S. 486 (1969); see also Attorney General of New Jersey v. First Family Mortgage Corp. of Florida, 487 U.S. 1213 (1988) (underlying mortgage foreclosure dispute ended when debt was satisfied); Tiverton Board of License Comm'rs v. Pastore, 469 U.S. 238 (1985)

(respondent went out of business and no longer had claim to press); Aikens v. California, 406 U.S. 813 (1972) (petitioner obtained complete relief under state statute, mooted constitutional claim concerning death penalty).

It is also the case that a defendant's voluntary cessation of an alleged illegal conduct does not deprive a court of its power to determine the legality of the practice lest the party be left free to return to its old ways. Friends of the Earth v. Laidlaw Environmental Services Inc., 120 S.Ct. 693 (2000); City of Mesquite v. Aladdin's Castle Inc., 455 U.S. 283 (1983). This rule applies, however, only to conduct which might affect the opposing party's own interests. Here, the agency has reimbursed claimant, thereby extinguishing the claim and eliminating claimant's legally cognizable interest in this matter.

The only purpose claimant cites for seeking a Board decision is to direct the agency to modify its practices so that other employees will be paid for similar claims in the future. The Board may consider only concrete claims by specific employees, however; we do not rule on hypothetical claims which may or may not arise. Consequently, the agency's payment of Mr. Thygerson's claim ends our involvement in this matter.

Claimant's motion for reconsideration is denied.

ANTHONY S. BORWICK
Board Judge